

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

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Person To Contact:
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PLR-151490-12

Date:
April 19, 2013

TY:

Legend

Taxpayer =
X =
Date a =
Date b =
Year 1 =
Year 2 =
Year 3 =

Dear :

This letter refers to your letter dated November 26, 2012, requesting, on behalf of Taxpayer, consent to revoke an election out of the installment method under § 453 of the Internal Revenue Code (Code) and § 15a.453-1(d)(4) of the Income Tax Regulations for reporting gain realized from the sale of certain property during the taxable year ending Date a.

FACTS

Taxpayer is an S corporation that uses an accrual method of accounting and whose taxable year is a calendar year. On Date b, Taxpayer entered into an agreement to sell the Taxpayer's assets to an unrelated third party. The sales contract required the purchaser to pay the purchase price in installments over three years, beginning in Year 1 and concluding in Year 3. The sale was completed in Year 1.

Taxpayer's return preparer filed Taxpayer's original Federal income tax return for Year 1 reporting the entire gain realized on the sale. Taxpayer represents that it intended to

report the gain realized from the sale using the installment method under § 453, but the Taxpayer's return preparer erroneously elected out of the installment method by reporting the entire gain realized in Year 1.

The erroneous election out of the installment method was discovered during the preparation of the personal income tax return for X, Taxpayer's majority shareholder, for Year 1. Shortly after Taxpayer realized the error, Taxpayer submitted this request to revoke its election out of the installment method for reporting gain from its sale of assets eligible for § 453.

LAW AND ANALYSIS

Section 453(a) provides that, generally, a taxpayer reports income from an installment sale under the installment method. Section 453(b)(1) defines an installment sale as a disposition of property for which at least one payment is to be received after the close of the taxable year of the disposition.

Section 453(c) provides that, for the purposes of § 453, the term "installment method" means a method under which the income recognized for any taxable year from a disposition is that proportion of the payments received in that year which the gross profit (realized or to be realized when payment is completed) bears to the total contract price.

Section 453(d)(1) provides that a taxpayer may elect out of the installment method. Except as otherwise provided in regulations, § 453(d)(2) requires a taxpayer that desires to elect out of the installment method to do so on or before the due date (including extensions) of the taxpayer's Federal income tax return for the taxable year in which the disposition occurs. Section 453(d)(3) provides that an election made pursuant to § 453(d)(1) may be revoked only with the consent of the Secretary.

Section 15a.453-1(d)(3) provides that a taxpayer who reports an amount realized equal to the selling price including the full face amount of an installment obligation on a timely filed Federal income tax return for the taxable year in which the installment sale occurs is considered to have elected out of the installment method.

Section 15a.453-1(d)(4) provides that an election out of the installment method under § 453(d)(1) generally is irrevocable. An election out of the installment method may be revoked only with the consent of the Internal Revenue Service. Section 15a.453-1(d)(4) further provides that revocation of an election out of the installment method is retroactive and will not be permitted when one of its purposes is the avoidance of Federal income taxes, or when the taxable year in which any payment was received has closed.

In the instant case, Taxpayer represents that the original reporting of the entire amount of gain from its sale of all of its assets, resulting in an election out of the installment

method of reporting any gain from that sale, was due solely to an error by the Taxpayer's return preparer. As soon as Taxpayer realized the error, it promptly submitted this request for a ruling seeking the consent of the Service to revoke the Taxpayer's election out of the installment method. In addition, as of the date of this letter, the periods of limitation applicable to Taxpayer's Year 1, Year 2, and Year 3 returns have not closed.

CONCLUSION

Based on the information submitted and the representations made, Taxpayer is hereby granted consent to revoke its election out of the installment method with respect to its sale of assets in Year 1.

Consent to revoke the election out of the installment method of reporting for the sale is granted for the period that ends 75 days after the date of this letter. If the ruling granted in this letter would have any effect on any amounts reported on Taxpayer's previously filed Federal income tax return for Year 1, Taxpayer must file an amended return for Year 1 to reflect the effect of this ruling. If any amended returns are required, a copy of this letter ruling must be attached to each of the amended returns.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter, including the allocation of the selling price among the assets sold and the computation of gain to be reported under the installment method. We further express no opinion regarding whether and to what extent the gain resulting from the sale is eligible for the installment method under § 453.

Sincerely,

JEFFREY T. RODRICK
Senior Technician Reviewer, Branch 5
Office of Associate Chief Counsel
(Income Tax & Accounting)

cc: